

STATEMENT OF CONSIDERATION RELATING TO
907 KAR: 3:210

Department for Medicaid Services
Amended After Comments

(1) A public hearing regarding 907 KAR 3:210 was not requested and, therefore, not held.

(2) The following individuals submitted written comments regarding 907 KAR 3:210:

<u>Name and Title</u>	<u>Organization/Agency/Other Entity</u>
Lisa A. (Chaplin) Wise, B.S. Special Edu., Assistant Director	Communicare
Darlene Eakin, Executive Director	Kentucky Optometric Association

(3) The following individual from the promulgating agency responded to comments received regarding 907 KAR 3:090:

<u>Name and Title</u>	<u>Organization/Agency/Other Entity</u>
Dana McKenna, Manager	Department for Medicaid Services, Acquired Brain Injury Branch
Leslie Hoffmann, Director	Department for Medicaid Services, Division of Community Alternatives,
Stuart Owen, Regulation Coordinator	Department for Medicaid Services, Commissioner's Office

SUMMARY OF COMMENTS AND AGENCY'S RESPONSES

(1) Subject: Case management face-to-face meeting requirement

(a) Comment: Lisa A. (Chaplin) Wise, BS Special Edu, Assistant Director Communicare made the following comment:

"Section 5: Case Management Requirements; Please clarify requirement; how can one visit in a month occur no more than 14 day apart?"

(b) Response: Thank you for this comment. DMS acknowledges the error and will file an "amended after comments" regulation to delete the "no more than fourteen (14) days apart" requirement.

(2) Subject: Respite

(a) Comment: Lisa A. (Chaplin) Wise, BS Special Edu, Assistant Director Communicare made the following comment

“Section 6: Covered Services; Would the participant be ineligible to receive Respite if the primary caregiver is a paid PDS Employee providing Personal Assistance?”

(b) Response: That is correct, the regulation requires respite be provided “on a short-term basis due to the absence or need for relief of a non-paid primary caregiver”

This requirement would prohibit the provision of respite services to a participant whose primary caregiver is a paid caregiver.

(3) Subject: Add optometrists to definition of licensed medical professionals

(a) Comment: Darlene Eakin, Executive Director, Kentucky Optometric Association made the following comment:

“Add optometrists to the definition of licensed medical professionals”

(b) Response: There are no current services in this waiver program that an optometrist would provide.

(4) Subject: Vision and neuro visual rehabilitation services

(a) Comment: Darlene Eakin, Executive Director, Kentucky Optometric Association made the following comment:

“Add “vision and neuro visual rehabilitation services” as covered services along with the following requirements:

“Vision-and neuro visual rehab services, which shall be:

1. An optometric or physician-ordered evaluation of a participant with a vision, sensory or visual motor development disorder;
2. A optometric or physician-ordered habilitative service in a specified amount and duration to assist a participant with a vision, sensory or visual motor disability in obtaining the highest possible level of functioning;
3. Exclusive of maintenance or the prevention of regression;
4. Provided by a vision therapy optometrist;
5. Spectacles with such power or prism as to aid in the rehabilitation process;
6. Documented by a detailed staff note, which shall include:
 - a. Progress toward goals and objectives identified in the approved person-centered service plan;
 - b. The date of the service;
 - c. The beginning and ending time; and
 - d. The signature and title of the individual providing the service;”

(b) Response: The recommended services are available to Medicaid recipients via the “state plan” – i.e. as a “regular” Medicaid benefit. This year the Centers for Medicare and Medicaid Services (CMS) has adamantly communicated to the Department for Medicaid Services that 1915(c) home and community based waiver services cannot duplicate services that are available to Medicaid recipients via the state plan. CMS has informed DMS that it must eliminate any such duplication. As the recommended services are available as state plan services DMS cannot add them to the acquired brain injury (ABI) waiver program as a waiver program benefit.

SUMMARY OF STATEMENT OF CONSIDERATION
AND
ACTION TAKEN BY PROMULGATING ADMINISTRATIVE BODY

The Department for Medicaid Services (DMS) has considered the comments received regarding 907 KAR: 3:210 and is amending the administrative regulation as follows:

Page 3

Section 1(7)(b)

Line 8

After “MWMA”, delete “portal”.

Page 6

Section 1(26)

Line 13

After “MWMA”, delete “portal”.

Page 26

Section 3(1)(b)1.

Line 8

After “MWMA”, delete “portal”.

Page 26

Section 3(1)(b)2.

Line 10

After “MWMA”, delete “portal”.

Page 27

Section 3(4)(a)

Line 5

After “MWMA”, delete “portal”.

Page 36

Section 4(4)(a)1.

Line 17

After “MWMA”, delete “portal”.

Page 36

Section 4(4)(a)2.

Line 18

After “MWMA”, delete “portal”.

Page 36

Section 4(4)(b)

Line 20

After “MWMA”, delete “portal”.

Line 21

After “MWMA”, delete “portal”.

Page 39

Section 5(2)(m)

Line 19

After “MWMA”, delete “portal”.

Page 40

Section 5(2)(n)

Line 5

After “MWMA”, delete “portal”.

Page 42

Section 5(4)(b)2.d.

Line 16

After “MWMA”, delete “portal”.

Page 45

Section 5(5)(g)9.

Line 21

After “site”, delete the following:
no more than fourteen (14) days apart,

Page 46

Section 5(5)(h)

Line 2

After “note”, insert “in the MWMA”.

Page 52

Section 6(2)(b)7.

Line 8

After “note”, insert “in the MWMA”.

Page 53

Section 6(2)(c)7.

Line 12

After “note”, insert “in the MWMA”.

Page 56

Section 6(2)(d)11.

Line 20

After “note”, insert “in the MWMA”.

Page 67

Section 6(2)(g)10.

Line 16

After “note”, insert “in the MWMA”.

Page 70

Section 6(2)(h)7.

Line 1

After “note”, insert “in the MWMA”.

Page 70

Section 6(2)(i)4.

Line 15

After “note”, insert “in the MWMA”.

Page 71

Section 6(2)(j)4.

Line 6

After “note”, insert “in the MWMA”.

Page 71

Section 6(2)(k)5.

Line 21

After “note”, insert “in the MWMA”.

Page 73

Section 6(2)(l)7.

Line 3

After “note”, insert “in the MWMA”.

Page 73

Section 6(2)(m)4.

Line 16

After “note”, insert “in the MWMA”.

Page 75

Section 6(2)(n)12.

Line 22

After “note”, insert “in the MWMA”.

Page 80

Section 6(2)(o)11.

Line 10

After “note”, insert “in the MWMA”.

Page 82

Section 6(2)(q)3.

Line 3

After “MWMA”, delete “portal”.

Page 82

Section 6(2)(r)2.c.

Line 19

After “MWMA”, delete “portal”.

Page 86

Section 8(4)(a)1.

Line 7

After “MWMA”, delete “portal”.

Page 87

Section 8(5)(b)1.

Line 2

After “MWMA”, delete “portal”.

Page 87

Section 8(5)(b)2.

Line 5

After “MWMA”, delete “portal”.

Page 87

Section 8(5)(c)2.

Line 10

After “MWMA”, delete “portal”.

Page 87

Section 8(6)

Line 23

After “MWMA”, delete “portal”.

Page 88

Section 8(7)(a)

Line 3

After “MWMA”, delete “portal”.

Page 89

Section 8(8)(a)

Line 13

After “MWMA”, delete “portal”.

Page 81

Section 9(2)(a)

Line 10

Delete “portal”.

Page 92

Section 9(2)(b)

Line 11

After “MWMA”, delete “portal”.

Page 92

Section 9(2)(c)

Line 13

After “MWMA”, delete “portal”.

Page 92

Section 9(3)(a)

Line 21

After “MWMA”, delete “portal”.

Page 93

Section 9(4)

Line 22

After “MWMA”, delete “portal”.

Page 104

Section 10(17)

Line 10

After “(17)”, insert the following:

(c) Services provided by a support broker shall meet the conflict free requirements established for case management in Section 5(4) of this administrative regulation.

(18)

Page 113

Section 14(1)(d)

Line 12

After "Exemption", insert "October".

Delete "May".